

FREDERICK BANKS,
Petitioner,
v.
KELLY FORBES, et al.,
Respondents.

²In subsequently-filed action, Banks represents that he is now held at the Northeast Ohio Correctional Center. See Banks v. Paris Acid Attack, C.A. No. 17-11906-WGY (D. Mass.)

District Courts (providing that, [i]f it "plainly appears from the face of the [habeas] petition . . . that the petitioner is not entitled to relief in the district court," the court "must dismiss the petition"); Rule 1(b) of the Rules Governing Section 2254 Cases (Rule 4 may be applied at the discretion of the district court to other habeas petitions).

Here, the Court lacks jurisdiction to inquire into the validity of Banks's confinement. "District courts are limited to granting habeas relief 'within their respective jurisdictions.'" Rumsfeld v. Padilla, 542 U.S. 426, 442 (2004) (quoting 28 U.S.C. § 2241(a)). Unless a statute explicitly states otherwise, "for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement." Id. at 443. Banks challenges his present physical confinement, which was in Georgia at the time of filing and now is in Ohio. Because Banks was not confined within the District of Massachusetts when he filed this action or thereafter, the Court is without jurisdiction over the present petition.

The Court, could, in its discretion, transfer Banks's petition to the judicial district of his confinement: "Whenever a civil action is filed in a court . . . and that court finds that there is a want of jurisdiction, the court shall, if it is in the interest of justice, transfer such action" 28 U.S.C. § 1631 (emphasis added). Here, however, transfer is not in the interest of justice. Habeas corpus is an extraordinary remedy that is generally available only in the absence of any other

remedy. See Stack v. Boyle, 342 U.S. 1, 6 (1951). Because Banks can raise his objections to the fact of his confinement in his criminal proceeding (in which he is represented by appointed counsel), resort to habeas relief is unnecessary.

Accordingly, the petition for a writ of habeas corpus is DENIED for lack of jurisdiction and this action is DISMISSED.
SO ORDERED.

/s/ William G. Young
WILLIAM G. YOUNG
UNITED STATES DISTRICT JUDGE